



PRESENTAZIONE DEL VOLUME

Informazioni generali

Autore: **Stefano Dominelli**

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Informazioni sul volume

The present work investigates the role of party autonomy and of the protection of disadvantaged parties in private international law in insurance matters, a field that in spite of numerous and in-depth studies, still remains highly debated.

The main focus of the research is the relationship between the original parties to the insurance contract, and their possibility to determine private and procedural international law aspects of their relationship. The aim of the first chapters is to reconstruct the current difficulties in finding common grounds to adopt solutions at the private international law level that would ensure protection of contractually weaker parties and promote, at the same time, party autonomy and freedom of services in the European judicial space.

Focusing the attention on the role of party autonomy and its limits in private international law, the research wishes to offer the relevant notions to distinguish the different insurance contracts and – consequently – the different relevant applicable rules, so as to determine the scope of application of the uniform provisions of international jurisdiction for both large risk and mass risk insurance contracts, as well as the extension of party autonomy in the selection of the

applicable law. A study of the rules for recognition and enforcement of decisions, with particular attention to the public policy exception in insurance matters, follows.

Building on the previous reconstruction, the last part of the research explores the inconsistencies of the current system to raise some critiques to the label-based system of protection, to the criteria to define contractually weaker party in private international law in insurance matters, to possible abuses of protection, and to paternalistic elements in the regime of protection. In this last sense, the research wishes to contribute to the legal debate on the reform of the system by proposing what seems to be a feasible “short-term” solution that might temporarily resolve some of the current problems and “build a bridge” to fill some of the existing gaps and inconsistencies up until that point in time when a true and desirable revolution of the private international law in insurance matters proposed by some authors will be possible.